

COMMISSION ON VASAP QUARTERLY BOARD MEETING

Thursday, September 12, 2013

Minutes

Attendance:

Commission Members:

Delegate Jackson H. Miller, Vice Chairman
Senator Richard L. Stuart
Delegate David J. Toscano
Delegate Richard L. Morris
The Honorable George D. Varoutsos
Sheriff Michael L. Wade
Mr. John Saunders
Ms. Mellie Randall
Ms. Pat Eggleston
Mr. Roy-Keith Lloyd
Ms. Susan Marchon

Absent:

Senator Thomas K. Norment, Jr.

Commission Staff:

Ms. Angela D. Coleman, Executive Director
Mr. Oscar Brinson, Legal Counsel
Mr. Christopher Morris
Ms. Sarah Morr
Ms. Linda Johnson

ASAP Directors:

Ms. Robyn Allen
Mr. Miles Bobbitt
Mr. Philip Braxton
Mr. Anthony Carmichael
Ms. Alicia Durrah
Ms. Brianna Foulke
Ms. Mary Read Gillispie
Mr. Richard Griffin
Ms. Victoria Kesler
Mr. Daren Leake
Ms. Beth Lipes
Mr. Kimball Peele
Ms. Carol Powell
Ms. Cindy Sheffield
Ms. Pam Simmons
Ms. Tara Smith
Mr. Rick Wilkins

Guests:

Mr. Jason Ball
Ms. Lithia Carter
Ms. Denise Connerty
Mr. Chad Goodwin
Mr. John Honea
Ms. Michelle Mitchell
Ms. Deborah Morgan

Time and Place:

The quarterly meeting of the Commission on the Virginia Alcohol Safety Action Program (VASAP) was held on September 12, 2013 at the General Assembly Building 6th Floor Speaker's Conference Room. The meeting was called to order by Delegate Jackson H. Miller, Vice Chairman.

Welcome:

Delegate Miller welcomed and thanked everyone for attending the meeting.

Delegate Miller introduced Rick Wilkins as the new Director for Chesapeake Bay ASAP. Philip Braxton was announced as the new director for Old Dominion ASAP; however, at the time of introductions he was not present.

Delegate Miller reported that the terms of appointment to the Commission for both The Honorable James F. Almand Jr. and The Honorable George W. Harris Jr. have expired. Delegate Miller stated that they both have served distinguishably on the Commission for several years. Chief Justice Kinser is in the process of appointing two full-time sitting judges to serve on the Commission.

Approval of the Minutes

A motion was made by Sheriff Wade and properly seconded by Senator Stuart to approve the minutes from the meeting on June 6, 2013. All were in favor.

Elections

Since the Chairman's position was vacated due to The Honorable Salvatore R. Iaquinto's appointment to the judiciary, the floor was opened for nominations for the position of Chairman. Delegate Richard L. Morris nominated Delegate Jackson H. Miller for the position of Chairman. No other nominations were received. The floor was closed. Delegate Jackson H. Miller was selected as Chairman by unanimous vote. Delegate Miller thanked the Commission for voting him as the Chair of the Commission.

Since Delegate Miller's former position of Vice Chairman was now vacated, the floor was opened for nominations for the position of Vice Chairman. Senator Richard L. Stuart nominated Sheriff Michael L. Wade as Vice Chairman. No other nominations were received. The floor was closed. Sheriff Michel L. Wade was selected as Vice Chairman by unanimous vote.

Delegate Miller stated that he wanted to touch a bit on the elections, and what was discussed in the Executive Finance Committee meeting yesterday, and also what was discussed with Senator Stuart and Sheriff Wade earlier this morning. Delegate Miller stated that in his opinion Sheriff Wade is probably the best suited person to be the Chairman of the Commission. He has worked hard and has been involved in the Commission for longer than most. He has been instrumental in moving the Commission forward and straightening out some of the issues with the local

programs around the state and he knows the “program inside and out”. Delegate Miller stated that he had spoken to Judge Iaquinto, Senator Stuart and a couple of other people. There are no rules or regulations that say a legislator has to be the Chairman or Vice Chairman of the Commission. Delegate Miller stated that it is kind of an “unwritten tradition”; adding that the Commission is now breaking with tradition by having elected a non-state legislator as the Vice Chairman.

Delegate Miller stated that the reason why the legislators initially had concerns about legislative leadership was accountability to the legislature, the Governor and to the people of Virginia. Delegate Miller stated the Commission does a great job without using any tax payer dollars, and is completely self-sufficient operating from client fees paid to the local ASAPs. It is more appropriate to represent the interest of the Commission to have a legislator as the Chairman.

Delegate Miller added that when he and Delegate Todd Gilbert were appointed to the Commission, they both came in with the mindset that this was a Commission that was government excess and could be easily rolled into probation and parole. After about a year of being on the Commission, they both came to realize that the Commission does a good job and that there was nothing that needed to be tampered with.

Delegate Miller also recalled there was a state Senator who thought that the Commission should no longer exist as it sits now, independently, and should fall under a different part of state government. However, the legislative members were able to tell colleagues that this is a very self-sufficient, organized and well run piece of the state government. Delegate Miller thanked Sheriff Wade for all of his hard work. He reiterated that Sheriff Wade would be the best person to chair the Commission; however to represent the Commission’s legislative interests, it should be a legislative chairman. Sheriff Wade agreed. Delegate Miller thanked Senator Stuart and Sheriff Wade.

Special Recognition

Delegate Miller recognized two retiring ASAP directors for their dedication and service, Carol Powell for nineteen years of service to Rappahannock ASAP in Fredericksburg, and Kathryn Van Patten for thirty years of service to Court Community Corrections in Roanoke. Senator Stuart commented on what an outstanding and excellent job Carol Powell had done in his area as director for the Rappahannock ASAP.

Delegate Miller recognized The Honorable Salvatore R. Iaquinto for his service as a member, Vice Chairman and Chairman of the Commission on VASAP. He stated that Judge Iaquinto definitely left a mark on our legislature and will be greatly missed. Delegate Miller stated that Judge Iaquinto will do a great job for the Commonwealth and community of Virginia Beach.

Executive Finance Report

Susan Marchon presented the Executive Finance report.

Budget Amendments

There were two requests for budget amendments. The first one was from John Tyler ASAP in the amount of \$3,988.60, to increase hours for part-time employees from 28 hours to 32 hours. The hours were previously reduced to 28 hours because of the interpretation of the new health care law. After consultation with their benefits administrator, it was verified that the requirements did not apply to agencies with less than fifty employees. The Executive Finance Committee recommended approval of the increase in the amended budget. Senator Stuart moved to approve the increase in the budget. The motion was properly seconded. All were in favor.

The second budget amendment was from Mount Rogers ASAP. Ms. Marchon stated that she would take a moment to explain the request because it was of concern to the Executive Finance Committee. The Mount Rogers ASAP requested an amendment in the total amount of \$3,301.00. The specific wording was to compensate employees for the net loss of income due to the increased cost of benefits. The Executive Finance Committee could not quite understand what they were asking for. They assumed they were asking to compensate employees for the increase in health care benefits but felt they needed to make a phone call to follow-up. As a result of the phone call, documentation was provided by the ASAP showing how the benefit increases or compensations were going to be allocated to staff. Ms. Marchon advised that, as the Executive Finance Committee continued to discuss the matter with Mount Rogers ASAP, it became apparent that the request was not to provide compensation for the increase in their health care costs. The amendment was to compensate employees for the change in the amount of taxes owed. Ms. Marchon stated "if you look at just their health care costs, each employee pays 25% of a standard rate for one person. Technically, all employees would have experienced the same increase and what concerned the Executive Finance Committee was that the reimbursement was disproportionally allocated among the employees." Ms. Marchon reported that this request is solely being presented at the insistence of the Mount Rogers ASAP. The Executive Finance Committee has no recommendation.

Senator Stuart asked if this was an effort to offset the increase in costs or would the ASAP be affected by the changes in VRS. Ms. Marchon advised that the ASAPs had already been given an option to spread out the affected changes in VRS over a five year period. Senator Stuart asked why would the Commission approve this, and if Ms. Marchon could provide a reason for approval. Ms. Marchon stated that she did not have a reason. Ms. Marchon stated that the Executive Finance Committee asked that very question and they were told that their policy board was insistent that the request be presented to the Commission. The Executive Finance Committee was told by Mt. Rogers ASAP Director Charles Brown, that if the request was denied that some of their board members would no longer agree to serve. Senator Stuart asked if this was the only reason the request was presented. Ms. Marchon responded, "yes."

Delegate Miller asked Ms. Marchon if she had an opinion on the matter. Ms. Marchon stated that the Executive Finance Committee finally asked the ASAP a specific question. "Is this just to compensate for the additional taxes that you have to pay?" The response was "Yes." Senator Stuart stated if the Commission were to approve this request, then it would have to approve reimbursements for all ASAPs. Delegate Miller stated that Senator Stuart is absolutely correct and the larger question would be if the Commission wants to provide recommendations for

health care reimbursements or advice to all the ASAPs across the state. The question should not just relate to Mount Rogers ASAP. Angela Coleman, VASAP Executive Director, suggested Ms. Marchon to advise the Commission that the actual increase in health care cost was \$25.00 per person, per month. That was the reason there was confusion regarding the \$1,800 reimbursement for just two of the employees.

Delegate Toscano stated that since the Commission operates by motion and there being none in this matter that no further action was needed. Delegate Miller agreed with Delegate Toscano. Delegate Miller stated that this concept is new to the Commission and asked that Ms. Coleman have her staff look into this to determine if it would affect the entire state system. Delegate Miller also suggested that Mount Rogers ASAP be notified that there was not a motion to approve or disapprove their request, and invite their policy board to attend the next Commission to explain why they feel that their budget amendment of \$3,301.00 should be approved.

Ms. Marchon added some information regarding the ASAPs prior budget request. In the Mount Rogers original budget, there were bonuses for their staff that amounted to \$7,000. The Executive Finance Committee did not recommend approval of their request because at that point there were issues with program revenues. Senator Stuart stated that if the Commission corresponds with the ASAP to invite them to attend the next meeting to substantiate why their request should be approved and that they be asked to conduct an analysis as to how this would impact every other office and employee. Delegate Miller stated that this type of analysis should be completed by Ms. Coleman's office.

Southwest Virginia ASAP

At the last meeting, the Commission voted to request an explanation from Southwest Virginia ASAP as to the reasons why the ASAP did not deduct costs for health care premiums from employee paychecks. At the Commission's request, a letter was sent asking the ASAP to explain their procedure. The ASAP responded that it was their historical process to allow employees to reimburse the program for premiums paid on their behalf by verbal agreement, by the 20th of the month and they were going to continue with this process.

The recommendation of the Executive Finance Committee was that the Southwest Virginia ASAP discontinues this process, and that they present to the Commission a plan by December 1st to show how they planned to make the deductions by the traditional means of payroll pre-tax dollars. The policy board and the director would be asked to appear before the Commission at the next meeting if the changes were not going to be made.

Peninsula ASAP

At the last meeting, it was reported that the Peninsula ASAP was dangerously close to exhausting all program funds and was on the verge of not being able to make payroll for personnel. Since that time, the program was able to secure a line of credit in the amount of the building's equity. It was reported by the director, Alicia Durrah, that they accessed \$40,000 of the available \$100,000 credit line. The program has repaid \$5,000 of those funds. Ms. Marchon stated that securing the line of credit clearly gave the ASAP the money needed to get themselves on track, and they are making progress in increasing revenues. Peninsula ASAP followed

guidelines set in place for deficit funding and building ownership. The Commission did not have to provide financial assistance to the program.

Commission staff along with Sheriff Wade, John Saunders, Oscar Brinson and Susan Marchon comprised the team that went to the Peninsula ASAP to examine their files and processes as part of a management review. Delegate Miller stated that this is a perfect example of where the Commission has spent a lot of hours examining their program files and records. The team did a good job looking through every receipt and every expense.

Ms. Marchon provided the Commission with an update on the state police investigation. The report is expected to be completed and ready by the next Commission meeting. Ms. Marchon reiterated what a good job the team did in providing detailed work reviewing a large amount of information.

Court Community Corrections ASAP

At the last meeting, the Commission authorized a management review of the Court Community Corrections ASAP. Commission staff along with Mellie Randall, Oscar Brinson, Roy-Keith Lloyd and Susan Marchon comprised the team that went to the Court Community Corrections ASAP to examine their files and processes.

The team reviewed all ASAP processes, finances, interviewed all staff; tried efforts to determine what is happening and, what is preventing the program from being certified. Significant problems were identified. The former director has since retired and Beth Lipes has been appointed the Interim Director. Information received of particular concern was that the former program director continued to work as a volunteer. Delegate Miller advised that he has placed a call into Mr. Bowers, the Chairman of the Court Community Correction Policy Board, to speak to him about the former director's continued role in the program. Delegate Miller stated that it is definitely a very different situation and is not the usual government standard or practice. Delegate Miller stated that it is his duty to try to work cooperatively with the policy board by talking to Mr. Bowers about the decision to have the former director serve as a volunteer.

Ms. Marchon advised that the management review will be completed by the next Commission meeting. The ASAP and their Policy Board will receive the management review prior to the meeting and will be given thirty days to respond with a plan to address the issues.

LifeSafer Interlock

Ms. Marchon reported that the Commission was notified that LifeSafer has been removed from the list of providers in the state of Pennsylvania. However, it is our understanding that LifeSafer still has the ability to conduct business that is not court related. The VASAP contract is written to require that companies notify the Commission on VASAP of any states in which the service provider is no longer conducting business along with the reason. LifeSafer has advised that they remain able to conduct business in the state of Pennsylvania. Ms. Marchon further reported that the Commission was advised that there is a possibility that LifeSafer may be suspended in at least one other state.

Senator Stuart inquired about what sort of business an ignition interlock vendor could conduct in another state without going through a program equivalent to VASAP. Ms. Marchon explained that in Virginia ignition interlock is regulated whereas in other states it may not be the same. For example, in other states a person could have an ignition interlock device installed without having to appear in the court system and without being monitored. Sheriff Wade asked if the Commission has had problems with LifeSafer in the past. Christopher Morris, VASAP Special Programs Coordinator, stated that from February 1 – March 1 2013, LifeSafer was suspended in the state of Pennsylvania for failure to gather permission to reduce breath reductions. They did not report this suspension to the Commission. Mr. Morris stated that in December of 2012 there were some issues with install wait times, which have since improved.

Senator Stuart stated that the contract does say that the ignition interlock vendors have to notify the Commission if they are no longer doing business. LifeSafer is no longer doing court related business with the state of Pennsylvania, and failed to provide notification. Oscar Brinson says it is clear that they have violated the spirit of the contract. Delegate Toscano added discussion about the exact contractual language and whether LifeSafer complied.

Senator Stuart asked how much longer they had on the contract. The response was until 2015.

Senator Stuart suggested that further discussion be addressed in executive session due to possible litigation. Delegate Miller agreed. No further discussion.

Executive Director's Report

Ms. Coleman advised that the Commission office continues to look for ways to support the local programs both financially and programmatically. In the last fiscal year, the Commission purchased two computers for each program and continues to pay for program workbooks. The Commission has also moved forward in the process of updating Inferno, which is the Commission's database system for offender tracking. This update will allow for opportunities to make Inferno more user-friendly. In addition, the Commission on VASAP is in the process of developing an electronic training module learning system. A premiere of this standardized electronic training module will be presented during the 2013 VASAP training conference.

Ms. Coleman reminded everyone of the Commission on VASAP's 2013 Training Conference scheduled for September 16th and 17th. She noted that registration will start on Sunday, September 15th from 4:00 p.m. – 6:00 p.m. Ms. Coleman reported that thirty-one policy board members have registered to attend the conference, and the Commission is very pleased to have their support.

Ms. Coleman discussed the initial Regional DMV and VASAP training which was located in Richmond and advised that three remaining DMV trainings were scheduled for Roanoke, Alexandria and Newport News. Ms. Coleman talked about the success of the Richmond training which was attended by over eighty participants with representation from local ASAPs, DMV, Office of the Executive Secretary, Court Clerks and Magistrates.

Ms. Coleman reported that on August 16th she received an invitation only request to participate in a round table discussion sponsored by the Teaching Affiliate of Harvard University and the Century Council on impaired driving and repeated offenders. It will be held on September 25th at the National Press Club. Ms. Coleman advised that she would provide an update during the next Commission meeting.

VASAPDA REPORT (ASAP Director's Association)

Mr. Kimball Peele reminded the Commission of the steady work that occurs daily in the local programs across the state. He noted that although there are some negative issues that require the Commission's review and attention, the majority of the ASAP's work is positive. VASAPDA continues to work with Commission staff on some ongoing projects, one of which is to help standardized forms and procedures. Mr. Peele stated that VASAPDA is proud of their newly produced Ignition Interlock DVD that is shown at the ASAPs regarding the procedures of how to operate the ignition interlock. He further noted that the ASAP directors and staff are looking forward to attending the VASAP annual conference. He expressed his desire that the Commission would continue to sponsor the conference because of the networking and learning opportunities afforded. Mr. Peele introduced Philip Braxton. Mr. Braxton apologized for not being present during the earlier introductions.

Meeting Date:

December 5, 2013

10:00 am

Executive Session

It was moved and properly seconded that members of the Commission convene in Executive Session under the *Code of Virginia*, pursuant to Section 2.2.3711(A)(7) to discuss legal issues specifically those matters related to LifeSafer. The motion was seconded and unanimously approved.

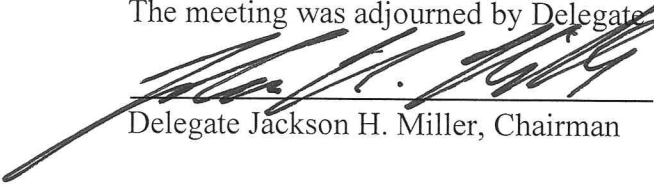
Return to Open Session

Delegate Toscano made the motion to certify that only legal matters related to LifeSafer were discussed during the Closed Meeting and no action was taken. The motion was seconded and unanimously approved.

Senator Stuart made the motion to send LifeSafer a letter placing them under review for a period of three months or such other available processes legal counsel determines is available. It appears that they have breached the contract, if not specifically at least the spirit of the same. In addition, LifeSafer will be required to attend the December 5, 2013 Commission meeting to explain these suspensions in the other states, and how they intend to resolve those difficulties. He further proposed that within the review period of three months that the Commission audits Lifesafer in Virginia to identify and assess any difficulties. After a review of the contract requirements, Counsel is authorized to draft the letter for signature by the Chairman. The motion was seconded and unanimously approved.

Adjournment:

The meeting was adjourned by Delegate Jackson Miller.



Delegate Jackson H. Miller, Chairman